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E-filing

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FILED
3/24/08

Richard W. Wieking
Clerk, U.S. District Court
Northern District of California
San Francisco

Attorney for Plaintiffs

ADR

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

THE FAMILY OF SAMUEL SHULL: Linda
Rines Shull, Samuel J. Shull, Jr., Jennifer Shull,
Cameron Rines-Caban, Jacob A. Rines-Caban,
Nathan Shull, Soaring Eagle (LeeAnn) Rines,
Casey Shull, Alberta Rines and Willie Smith,

No. C08-01601 JL

**FURTHER STIPULATION RE ADR;
~~(Proposed)~~ ORDER THERON**

Plaintiffs,

vs.

Keystone America, Inc., dba Jones and Lewis
Clear Lake Memorial Chapel, and DOES 1-100,

ACTION FILED: 3/24/08
TRIAL DATE: NOT ASSIGNED

Defendants.

STIPULATION

WHEREAS:

1. The parties initially stipulated to Mediation, then agreed that a Magistrate Judge Settlement Conference would offer more promise of settlement, and obtained an Order by stipulation changing the ADR to Magistrate Judge Settlement Conference.

2. However, recent events have caused the parties to agree that:

a. A Magistrate Judge Settlement Conference would not be productive, and would therefore be an unjustified use of a Magistrate Judge's time, because the parties are too far apart (in fact, much further apart than they had imagined) for a settlement conference of any kind to bridge the gap; and

b. The Early Neutral Evaluation (ENE) Program would most likely be more useful, because, as the Parties understand it, the goal of the exercise would be simply for the neutral to provide the parties with as objective evaluation of the value of the case as possible, less affected by the techniques often used in mediation to exaggerate and/or soft-pedal certain facts and/or issues in order to coax the parties towards each other.

3. Plaintiffs' counsel also feels strongly that, since the chances of settlement at this time are so low, it would be unconscionable to force the ten (10) Plaintiffs in this case, who must travel from distance, to attend and be subjected to the intense emotions associated with the case, which involves the severe damaging of their loved-one's body by the Defendant's driver failing to secure the body properly into a van, then negligently crashing the van into a stopped car at, according to the police report, 55 mph.

4. Both parties' counsel are available for trial any date from mid-February 2010.

THEREFORE, THE PARTIES, BY COUNSEL, HEREBY STIPULATE AND REQUEST that:

1. The currently scheduled Magistrate Judge Settlement Conference and preceding scheduling be vacated;

2. The case be referred for Early Neutral Evaluation; and

3. Trial be set for a date following the likely date of the Early Neutral Evaluation, but no earlier than mid-February, 2010.

DATED: 4/7/09

DATED: 4/7/09

LAW OFFICES OF BRUCE E. KRELL, INC.,
By /S/
Michael Cohen

LEWIS BRISBOIS, BISGAARD & SMITH,
By /S/
Howard Churchill

ORDER

The Court having read and considered the above-Stipulation, and good cause appearing,

1 IT IS HEREBY ORDERED that:

2 1. The currently scheduled Magistrate Judge Settlement Conference and
3 preceding scheduling shall be, and it hereby is, vacated;

4 2. The case shall be, and it hereby is, referred for Early Neutral Evaluation;

5 3. The Case Management Conference currently scheduled for May 6, 2009,
6 shall be, and it hereby is, ~~vacated, and~~ continued to June 24, 2009 at 10:30 a.m.

7 4. Trial is set for (to be determined).

8 DATED: April 20, 2009

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12 James Larson, Magistrate Judge
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